

**REMARKS**

In accordance with the foregoing, claims 10-16 have been amended. Claims 20-21 have been canceled, and new claims 22-23 have been added. Therefore, after entry of the foregoing claim amendments, claims 10-19 and 22-23 will be pending and under consideration. No new matter is being presented, and approval of the amended claims is respectfully requested.

***Changes to the Specification***

The Examiner states that the Title is not descriptive. Accordingly, the Title is amended herein as the Examiner suggests. Approval of the amended Title is respectfully requested.

***Rejections under 35 U.S.C. §102(b)***

Claims 10 and 16 stand rejected as being anticipated by Awad et al. (U.S. 2004/0022177) (hereinafter “Awad”). The rejections are respectfully traversed and reconsideration is requested. The following is a comparison between embodiments of the present invention and the cited reference.

Independent claim 10, for example, is amended herein to recite a detector which detects information on one of an uplink and downlink set to be prioritized, from signals received from the terminal apparatus; and a communication control unit which refers to the information thus detected, and stops the processing of varying the transmission rate and maintains the transmission rate if the one of the uplink and downlink set to be prioritized is different from the uplink or downlink subject to variation of the transmission rate by the transmission rate varying unit, wherein the transmission rate varying unit stops data communication in the uplink and downlink in order to execute the processing of varying the transmission rate. (Support may be found at page 11, line 16, to page 12, line 8; page 23, line 20, to page 25, line 13; page 27, line 2, to page 28, line 7; page 33, line 12, to page 35, line 8; and Figs. 1 and 5-7 of the present application).

Awad discloses base stations and user equipment (UE) communicating with each other, where a transmission rate is adjustable based on transmission quality ranges. It is respectfully

submitted, however, that Awad fails to teach or suggest the features of amended claim 10, provided above.

Independent claim 16 is amended similarly and, thus, the foregoing is asserted for amended claim 16 as well. Therefore, it is respectfully submitted that amended claims 10 and 16 patentably distinguish over the cited reference.

***Rejections under 35 U.S.C. §103(a)***

Claims 11-20 stand rejected as being unpatentable over Awad in view of Tiedemann et al. (U.S. 2007/0206623) (hereinafter "Tiedemann"). The rejections are respectfully traversed and reconsideration is requested. The following is a comparison between embodiments of the present invention and the cited art. It is noted that claim 20 is cancelled herein and, thus, the rejection thereof is considered moot.

The remaining pending independent claims 11, 12 and 16 are similarly amended herein to recite features substantially similar to those described above with respect to claim 10. Thus, the foregoing arguments are submitted for amended claims 11, 12 and 16, which patentably distinguish over Awad. It is further submitted that Tiedemann fails to cure all of the deficiencies of Awad described herein. The pending dependent claims inherit the patentability of their respective independent claims, and are patentable for at least the reasons presented herein.

It is noted that support for amended dependent claims 13-15 may be found at page 11, line 15, to page 12, line 8; and Figs. 1 and 7, of the present application.

***Rejections under 35 U.S.C. §101***

Independent claim 21 is rejected as being directed to non-statutory subject matter; however, claim 21 is canceled herein and thus the rejection thereof is considered moot.

***New Claims***

New independent claims 22 and 23 recite features substantially similar to those described herein and are submitted to be allowable for at least the foregoing reasons. Support may be found at page 11, line 16, to page 12, line 8; page 23, line 20, to page 25, line 13; page 27, line 2, to page 28, line 7; page 33, line 12, to page 35, line 8; and Figs. 1 and 5-7 of the present application.

**CONCLUSION**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 278542003500. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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